



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission of Antidumping Duty New Shipper Reviews; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“Department”) published its *Preliminary Rescission* for two new shipper reviews (“NSRs”) of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (“Vietnam”) on January 28, 2015.¹ The period of review (“POR”) is August 1, 2013, through January 31, 2014. As discussed below, we preliminarily found that the sales made by Nam Phuong Seafood Co., Ltd. (“Nam Phuong”) and NTACO Corporation (“NTACO”) were non-*bona fide*, and announced our preliminary intent to rescind their NSRs. For the final results of this review, we continue to find Nam Phuong’s and NTACO’s sales to be non-*bona fide*. Therefore, we are rescinding these two NSRs.

DATES: Effective date (insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Nam Phuong) or Susan Pulongbarit (NTACO), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

¹ See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Intent To Rescind Antidumping Duty New Shipper Reviews; 2013-2014*, 80 FR 4544 (January 28, 2015) (“*Preliminary Rescission*”).

Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 or (202) 482-4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

As noted above, on January 28, 2015, the Department published the *Preliminary Rescission* of these NSRs. Thereafter, the Department extended the time period for issuing the final results to June 19, 2015.² On February 27, 2015, the Department received case briefs from Nam Phuong and NTACO. On March 12, 2015, the Department received rebuttal briefs from the Catfish Farmers of America and individual U.S. catfish processors (“Petitioners”).

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the

² See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Susan S. Pulongbarit, Senior International Trade Analyst, Office V, Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Final Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated April 6, 2015.

Harmonized Tariff Schedule of the United States (“HTSUS”).³ Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

For a full description of the scope, *see* “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Issues and Decision Memorandum for the Final Results of New Shipper Review,” dated concurrently with this notice (“I&D Memo”).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties are addressed in the I&D Memo, which is hereby adopted by this Notice.⁴ A list of the issues which parties raised is attached to this notice as an Appendix. The I&D Memo is a public document and is on file in the Central Records Unit (“CRU”), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at <http://trade.gov/enforcement/frn/index.html>. The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Bona Fide Analysis

³ Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁴ *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement & Compliance, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Issues and Decision Memorandum for the Final Results of Antidumping Duty New Shipper Reviews: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated June 19, 2015.

For the *Preliminary Rescission*, the Department analyzed the *bona fides* of Nam Phuong's and NTACO's sales and preliminarily found them to be non-*bona fide*.⁵ Based on the Department's complete analysis of all the information and comments on the record of this review, the Department continues to find their sales to be non-*bona fide*. With respect to both Nam Phuong and NTACO, the Department reached this conclusion based on the totality of circumstances, namely: (a) the atypical nature of their prices; (b) the atypical involvement of other entities in the sale; (c) atypical circumstances surrounding production; (d) late payment; and (e) lack of profit on the resale of subject merchandise.⁶ For a complete discussion, *see* the I&D Memo and each company's Final *Bona Fide* Memorandum.⁷

Rescission of New Shipper Review

For the foregoing reasons, the Department finds that Nam Phuong's and NTACO's sales are non-*bona fide* and that these sales do not provide a reasonable or reliable basis for calculating a dumping margin. Because these non-*bona fide* sales were the only sales of subject merchandise during the POR, the Department is rescinding this NSR pursuant to section 19 CFR 351.214(f).

Cash Deposit Rates

⁵ See "Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam" from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated January 20, 2015 ("Preliminary Decision Memorandum"), and hereby adopted by this notice.

⁶ See I&D Memo.

⁷ See Memorandum to James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Matthew Renkey, Senior International Trade Analyst "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Analysis for the *Bona Fide* Nature of Nam Phuong Seafood Co., Ltd.'s Sale," dated June 19, 2015; *see also* Memorandum to James Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Susan Pulongbarit, Senior International Trade Analyst "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Analysis for the *Bona Fide* Nature of NTACO Corporations's Sale," dated June 19, 2015.

The following cash deposit requirements continue to apply for all shipment of subject merchandise from Nam Phuong and NTACO entered, or withdrawn from warehouse: (1) for subject merchandise produced and exported by Nam Phuong or NTACO, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.*, 2.39 U.S. Dollars/kg); (2) for subject merchandise exported by Nam Phuong or NTACO but not manufactured by Nam Phuong or NTACO, the cash deposit rate will continue to be the Vietnam-wide rate (*i.e.*, 2.39 U.S. Dollars/kg); and (3) for subject merchandise manufactured by Nam Phuong or NTACO, but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to Administrative Protective Order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in these segments of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.214.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

June 18, 2015
Date

Appendix – Issues and Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
Comment 1: Commerce's *Bona Fide* Analysis for Nam Phuong and NTACO
Comment 2: Surrogate Country Selection
Recommendation

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